

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT LYNCHBURG, VA

FILED  
for Charlottesville  
MAR 15 2006

JOHN F. CORCORAN, CLERK  
BY: Fay Coleman  
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ROGER D. WALKER,

*Plaintiff,*

v.

JOHN E. POTTER,  
Postmaster General, U.S. Postal  
Service

*Defendant.*

CIVIL ACTION No. 3:05CV00040

ORDER AND OPINION

JUDGE NORMAN K. MOON

Plaintiff filed the Complaint in this case on August 17, 2005. According to Federal Rule of Civil Procedure 4(m): "If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time . . . ." Fed. R. Civ. P. 4(m). In accordance with this rule, Plaintiff was required to serve Defendant by December 15, 2005. Plaintiff did not serve Defendant within this time period. On January 27, 2006, the Court issued a 100-Day Notice to Plaintiff, giving Plaintiff fifteen days to notify the Court that service had been accomplished on Defendant in order to avoid dismissal. Plaintiff has not responded to the 100-Day Notice within the required time period. Accordingly, pursuant to Federal Rule of Civil Procedure 4(m), this case is DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

The Clerk of the Court is directed to send certified copies of this Order to all Counsel of Record. The Clerk of the Court is further instructed to STRIKE this case from the docket.

ENTERED: Nyran E. Mun  
U.S. District Judge

March 15, 2006  
Date